

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of

Docket No. 2008-0115

MOLOKAI PUBLIC UTILITIES,
INC., WAI'OLA O MOLOKA'I, INC.,
and MOSCO, INC.

For Temporary Rate Relief.

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COUNTY OF MAUI'S RESPONSE TO MOTION TO INTERVENE
FILED BY WEST MOLOKAI ASSOCIATION ON JULY 3, 2008

CERTIFICATE OF SERVICE

FILED
2008 JUL 11 P 1:04
PUBLIC UTILITIES
COMMISSION

DEPARTMENT OF THE CORPORATION COUNSEL

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Attorneys for COUNTY OF MAUI

**COUNTY OF MAUI'S RESPONSE TO MOTION TO INTERVENE
FILED BY WEST MOLOKAI ASSOCIATION ON JULY 3, 2008**

Comes now, COUNTY OF MAUI ("County"), by and through its attorneys, BRIAN T. MOTO, Corporation Counsel, and JANE E. LOVELL, Deputy Corporation Counsel, and hereby responds to the Motion to Intervene filed in this docket by West Molokai Association ("WMA") on July 3, 2008 as follows:

County welcomes the participation of other customers of Molokai Public Utilities, Inc., Wai`ola O Moloka`i, Inc., and Mosco, Inc. (hereafter referred to collectively as "the Utilities") in this docket. However, County has several concerns about the WMA's Motion to Intervene.

County is informed and believes that Daniel Orodener, an officer of the Utilities, is also a member of WMA's Board of Directors, with a term beginning in 2007 and expiring in 2010. County is concerned that allowing WMA to intervene while Mr. Orodener is a member of WMA's Board will in essence give Mr. Orodener two bites of the apple, one in his capacity as an officer of the Utilities, and the other in his capacity as WMA Board member.

In addition, County takes issue with WMA's claim, made on page 5 of WMA's Motion to Intervene, that the County has a "legal mandate" to provide potable water for domestic use, fire protection, etc." There are numerous areas of the County of Maui in which the County does not provide potable water service. County's research has not uncovered any "legal mandate" to provide utility services and WMA's motion does not cite to any statutory or case authority for that proposition.

County also disagrees with WMA's unsupported assertion that County has not taken "any positive steps toward a meaningful long term or short term solution." (Id. at pp. 5-6) County has taken a number of positive steps, including filing a formal complaint with the PUC, supporting the PUC's order requiring the Utilities to continue operating, assisting in the search for private entities who might be willing to take over the Utilities, requesting the PUC to issue subpoenae for the Utilities' documents, and calling on the Governor to use her emergency powers under HRS §§ 128-9(4) and 342D-10, among others.

Likewise, the County does not agree with WMA's claim that the County's "interest in this proceeding is adverse to WMA's interests." (Id. at p. 6.) As a customer of the Utilities, the County is similarly situated to the members of WMA, who are also customers.

Finally, County has no legal duty to conduct "a comprehensive inspection of the Utilities['] sewer or water system" (id. at p. 5), particularly where the County has no legal duty to bail out the Utilities or to take over the Utilities' operations. Under state law, the Governor, rather than the County, has the legal authority and concomitant legal duty to take over the operation of the Utilities, if necessary, to assure their continued operation. HRS § 128-9(4).

DATED: Wailuku, Maui, Hawaii, July 10, 2008.

BRIAN T. MOTO
Corporation Counsel
Attorneys for COUNTY OF MAUI

By:


Jane E. Lovell
Deputy Corporation Counsel

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I hereby certify that on this date a copy of the foregoing document was served upon the following by First Class Mail, by depositing copies bearing sufficient postage with the U.S.

Post Office, addressed as follows:

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Daniel Orodener, General Counsel
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DATED: Wailuku, Maui, Hawaii, July 10, 2008.

BRIAN T. MOTO
Corporation Counsel
Attorneys for COUNTY OF MAUI

By: Jane E. Lovell
Jane E. Lovell
Deputy Corporation Counsel